UNITED NATIONS

DEPARTMENT OF PUBLIC INFORMATION

NON-GOVERNMENTAL ORGANIZATIONS SECTION

DPI/NGO/SB/91/4

THE ROLE OF TRANSNATIONAL CORPORATIONS IN THE NEW EUROPE

Not an official record or press release. This summary is made available to NGO representatives for their information and free dissemination).

On 31 January 1991, Mr. Karl P. Sauvant, Acting Assistant Director, Economic Issues, Policy Analysis and Research Division, United Nations Centre on Transnational Corporations (UNCTC) and Mr. Nikolai P. Zaitsev, Deputy Chief, Office of the Executive Director, UNCTC, briefed NGO representatives on the Role of Transnational Corporations in the New Europe.

Mr. Sauvant said there are about 20,000 companies which are of a transnational character, that is, which control assets in more than one country. The stock of foreign direct investment has reached $1.5 trillion, annual flows are currently $200 billion (which is 30 per cent of private capital flow to developing countries). The activities of transnational corporations (TNCs) are closely linked to financial flows, trade and technology flows. An estimated 40 per cent of world trade is conducted within TCs. 80 to 90 per cent of technology receipts are from parent companies abroad. To sum up, Mr. Sauvant said, TNCs are central to economic development; they are a dynamic element which may have both a positive and negative impact on economic growth.

With reference to the "New Europe," Mr. Sauvant pointed to the dramatic changes in Eastern Europe in 1989 and 1990 which set the countries undergoing peaceful revolutions on the way to a market economy. At the same time, Western Europe is developing further, with the European Community, (EC), at its core. The planned EC single market by the end of 1992 is creating a new dynamism in Europe and works as a magnet for other countries as well. Countries which have applied for EC membership include Austria and Malta, while Sweden and other countries are expected to follow. Eastern European countries consider applying as well, Mr. Sauvant said, noting that a "Common European House" is under construction.

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A pre-condition for the success for the New Europe will be that it is economically prosperous. As the principal agents to allocate capital, technology, know-how, and markets, the role of transnational corporations is crucial. In the European Community, TNCs have an important function in terms of integrating the market on the production level, that is, producing, selling and consuming. TNCs benefit from, but also contribute to the integration process in the EEC, according to Mr. Sauvant.

Turning to the situation in Eastern Europe, Mr. Sauvant said that, until recently, the economies of the region had been centrally planned and there was little room for transnational corporations. However, the stage is changing rapidly, as all countries are introducing market economies. With reference to the role of foreign direct investment, Mr. Sauvant turned the floor over to Mr. Nikolai P. Zaitsev.

Mr. Zaitsev said the expectations with regard to foreign direct investment in Eastern and Central Europe were quite high in the late 1980s. Foreign direct investment was seen as a means of bridging the two different economic and political systems and was channeled mainly through joint ventures. Since the profound political changes in the late 1980s and in 1990, Eastern and Central Europe and the Soviet Union see foreign direct investment and co-operation with transnational corporations as a means of creating new market economies, through creating a new legal framework and developing managerial skills in operating markets and as instruments of integrating their countries into the world economy. To this date, the impact of foreign direct investment and TNCs in this region has been minimal, the reasons being inadequate legal framework/protection of foreign capital, the imperfections of the supplies and distribution systems, the non-convertibility of local currencies and the high inflation over the last two-three years.

According to a study undertaken jointly by the World Bank, IMF, OECD and the European Bank for Reconstruction and Development published in December 1990, "The Economy of the USSR," foreign direct investment could make a major contribution to the structural transformation of the economy through capital infusion, transfer of technology and managerial skills and equally important by exposing domestic enterprises to market conditions. A number of laws and regulations recently adopted in Eastern and Central Europe and the USSR are creating a new investment climate, according to Mr. Zaitsev. As an example, Mr. Zaitsev pointed to The USSR Presidential Decree of 26 October 1990 which, he said, made a breakthrough in allowing foreigners to invest in joint ventures, to acquire property, shares, land-use rights and other securities.

The United Nations Centre on Transnational Corporations was one of the first United Nations departments to launch a programme of technical co-operation with the Soviet Union and countries of Central and Eastern Europe, Mr. Zaitsev said.

Co-operation includes facilitating negotiation and implementatation of joint ventures, seminars, assistance in designing foreign investment legislation, and development of much needed accounting systems and training. As part of its activities related to the establishment of free economic zones in that region, CTC recently finished a 500-page volume: "The Challenge of Free Economic Zones in Central and Eastern Europe" Mr. Zaitsev concluded.

Outlining effects the changing economy in Eastern Europe may have on developing countries, Mr. Sauvant pointed to some reasons for concern on the part of developing countries, especially with regard to foreign direct investment: Eastern Europe is quite attractive for companies, as it is a large and untapped market, has considerable supplies of raw materials such as oil, hard minerals and agricultural produce, has a highly skilled population, and is located very close to one of the richest markets in the world, the European Community. Clearly there is a fear, Mr. Sauvant said, that private funds may be invested in an easier accessible Eastern Europe than in developing countries. Whether this is happening is too early to tell, he added.

Developing countries also fear that aid, official development assistance, and earmarked funds for developing countries may be diverted to Eastern Europe. All countries have assured that this will not be the case, but the future will show where growth occurs, according to Mr. Sauvant. Furthermore, he referred to the issue of migration, which he called "potentially the hottest issue of the 1990s." The European Community has a large influx of people from North Africa and Eastern Europe. Germany received 800,000 people from Eastern Europe in 1990, while the Soviet Union, if free migration were legalized, may expect emigration of several million people.

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DEPARTMENT OF PUBLIC INFORMATION

NON-GOVERNMENTAL ORGANIZATIONS SECTION

DPI/NGO/SB/91/5

PROBLEMS AND CHALLENGES OF THE CONVENTION ON THE LAW OF THE SEA

(Not an official record or press release. This summary is made available to NGO representatives for their information and free dissemination.)

On 7 February, 1991, Mr. Jean Pierre Levy, Director and Deputy to the Special Representative of the Secretary-General for the Law of the Sea, briefed NGO representatives on the Convention on the Law of the Sea.

In December 1970 the United Nations General Assembly recognized that the world's oceans are "the common heritage of mankind," declaring that the sea-bed and ocean-floor lying beyond national jurisdiction should be reserved exclusively for peaceful purposes. In 1982 the United Nations Convention on the Law of the Sea sent a signal of the international community's concern with protecting the use and resources of the world's oceans. "The use of marine resources should be guided by prudence, supported by mutual co-operation and safeguarded by international law." Eight years ago this Convention was adopted, and later signed by 159 member states. It has been ratified by 45 states out of 60 needed for its entry into force.

NGOs can undoubtedly play a very important role in developing national and regional marine policies as well as lending support to the process of ratification, Mr. Levy said. He emphasized that the International Law of the Sea was totally predicated upon the peaceful uses of ocean-space and its resources. The 1982 Convention refers regularly to co-operation among states for the oceans' peaceful uses and does not deal with the law of war.

Mr. Levy provided a brief historical review of the Law of the Sea. In ancient times States established a number of customs as an agreement to use the oceans for commerce and transport. In colonial times there was a kind of generally accepted doctrine based on the principle of the freedom of the high seas. This freedom was only limited in the territorial sea over which the coastal state had full sovereignty, mainly for defensive purposes. With the development of civilization, interdependence amongst states increased substantially and there was a need for a general agreement on the customary practice of the uses of the seas. All attempts to codify globally these customs at the end of the 19th and the beginning of the 20th century failed, according to Mr. Levy.

It was only in 1958 that the First United Nations Conference on the Law of the Sea was convened in Geneva to codify existing customary law. The result was four multilateral conventions containing what can be considered as the classical law of the sea. These conventions did not respond to future needs and were regarded by many states as obsolete the day they were adopted.

The conventions were the following:

1. The Convention on the High Seas: It reiterated the principle of the freedom of the high seas.

2. The Convention on the Territorial Sea: It provided for the national sovereignty over the territorial sea for coastal states, but it failed to define where the territorial sea ended and the high sea began. The extent of that area varied from state to state.

3. The Convention on the Continental Shelf: It granted coastal states jurisdiction over the resources on their Continental Shelf to a depth of 200 metres, or beyond that to the depth of water permitting exploitation. If technology allowed, the continental shelf could be extended and thus the area over which the states executed special rights.

4. The Convention on Fishing: This convention also called for co-operation among states concerning the living resources of the sea.

All these Conventions were generally accepted and they entered into force, being recognized as the Law of the Sea.

Mr. Levy pointed to two major developments in the 1960s, one of them being tremendous progress in the fields of science and technology which opened up new possibilities concerning the uses of the oceans and their resources. Another important development during the 1960s was decolonization, he said. Many former colonies acquired independence and thus enlarged the community of states. As means were developed to explore the oceans beyond the continental shelves and precious minerals were discovered on the deep sea bed, it became necessary to set up regulations for this area that also took into account the interests of the newly founded states. Therefore, in 1967, Ambassador Pardo from Malta urged the United Nations to ensure purely peaceful uses of the sea bed and to hinder the more developed countries from exploiting deep sea resources.

The General Assembly decided to update the 1958 Conventions and also to create international regulations for the future. Mr. Levy explained the fundamental difference between the 1958 Convention, which only codified former existing customary law, and this new approach which was to lead to future-orientated agreements among states.

The Third United Nations Conference on the Law of the Sea was convened in 1973, endorsing a "package deal" approach with no one article to be approved before all others were in place. The success of this Conference, Mr. Levy said, was tied to the fact that it worked on the basis of consensus among the more than 160 member states.

In 1981, the Reagan administration withdrew from the negotiations on the Convention on the Law of the Sea as it did not accept the implications of the concept of the sea bed as being the "common heritage of mankind," meaning that no state could exploit unilaterally the sea bed in the area beyond national jurisdiction. Thus the consensus was broken at the time of the adoption of the Convention. Nevertheless, the Convention was signed by 159 member states and has been ratified by 45.

Mr. Levy noted that the member states that did not sign the Convention can be divided into two major groups: Some Latin-American countries whose constitutions include provisions different from those of the Convention, and a group of industrialized nations which has not signed because they do not agree with the type of international regime set up by the Convention. Among these states are the United States, the United Kingdom and Germany. Apart from the articles of the Convention dealing with the sea bed as the common heritage of mankind, all other articles and annexes have been accepted by all states and have been translated into national jurisdiction.

Mr. Levy pointed out the differing characteristics of the 1958 and the 1982 Conventions on the Law of the Sea. Whereas in the 1958 Convention customary law was codified and thus turned into conventional law, the 1982 Convention has lead to new customary law being established out of conventional law that was not generally accepted. The most important elements of the 1982 Convention that are recognized and executed by all states are, according to Mr. Levy:

- the definition of the territorial sea as an area extending up to 12 nautical miles (126 coastal states, including the United States, have established territorial seas in accordance with the provisions of the Convention)

- the definition of an exclusive economic zone, which extends up to 200 miles over which the state has sovereign rights concerning the exploitation of resources, but not over navigation.(96 states have established this zone, including the U.S.); and

- the continental shelf being limited to 200 miles from shore or according to geological description

A compromise was also found concerning marine scientific research, where the coastal state had to give its approval. This was called the consent regime. The Convention also contains regulations on the protection of the global marine environment, and thus, for the first time, obliges every state to preserve the ecology in the oceans. A system of settlement of dispute was another essential element of the 1982 Convention, including the creation of an International tribunal on the Law of the Sea.

All these regulations are generally accepted by all states and have been translated into practice, being recognized also by international jurisdiction.

In Mr. Levy's opinion, the regulations concerning the common heritage of mankind (the sea-bed and its resources) should be seen in their proper perspective. So far, he said, no state has the technology to exploit resources at the depth of the sea bed, and neither are these resources urgently needed, as there are large supplies of minerals on land.

Along with the adoption of the Convention, a Preparatory Commission was established in order to set up the rules and regulations for an international authority including an international tribunal for the Law of the Sea. The Commission has met twice a year since 1983. This interim international authority monitors sea-bed-exploration undertaken by states that have invested in this field before the Convention enters into force, the so-called "pioneer investors." They must be registered with the Commission under certain conditions in order to gain certain rights for an area of 150,000 square miles. States that have gained the status of a pioneer investor are the USSR, Japan, France and India. China recently applied for this status and will probably be accepted at the next meeting of the Commission, Mr. Levy said.

Addressing the problem of universality of the 1982 Convention, Mr. Levy said that 90 per cent of the Convention's regulations have already been accepted and are recognized as international law. But still, conventional law undoubtedly has a superior status to customary law, which always leaves room for interpretation. The Secretary-General is making every effort to find solutions that will permit the Convention to enter into force as soon as possible and with the widest possible support.

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DEPARTMENT OF PUBLIC INFORMATION

NON-GOVERNMENTAL ORGANIZATIONS SECTION

DPI/NGO/SB/91/6

WORLD ENERGY SITUATION

(Not an official record or press release. This summary is made available to NGO representatives for their information and free dissemination.)

On 14 February, 1991, Mr. Charles Constantinou, Chief of the Energy and Resources Branch at the Department of International Economic and Social Affairs (DIESA), briefed NGO representatives on the world energy situation.

Mr. Constantinou began by reviewing the world energy situation over the last century. During the nineteenth century up to the Second World War, the world's main energy source was coal. Oil became important during and after the First World War. There were numerous discoveries of oil prior to the Second World War, but the real development of these resources only began in the fifties and sixties, especially in the Middle East due to the magnitude of oil reserves in that region. That period was characterized by economic growth, not only among the industrialized countries, but also developing countries. This development was fueled by low oil prices. In 1950, for example, one barrel of oil was less than three dollars, whereas now it is 20 dollars a barrel.

The economic development during the sixties gave rise to fear among some nations, which expressed their concern that the raw materials of the world would not suffice to meet increasing demand. They were also afraid that this development would lead to environmental constraints and thus hinder the upward trend of living standards. Politically, the most important development during that period was that many developing countries gained independence. But the political independence of these countries left them economically dependent on the developed countries. Their oil resources were exploited by transnational oil corporations and exported to the developed countries at low prices. The enormous profit gained from oil production benefitted both the oil companies and the governments of the producing states.

During the 1960s and early 1970s, energy consumption and thus the demand for oil increased considerably due to continuous economic growth. The increase in oil consumption rose by seven per cent per annum. This development encouraged the OPEC countries to call for higher oil prices, which led to the January 1971 Teheran Agreement and the April 1971 Tripoli Agreement. In these agreements the OPEC countries and the oil companies set up guidelines for a steady increase of oil prices over the following five years.

The 1973 Middle East war changed the relations between the oil companies and the host governments of the OPEC countries. For the first time the OPEC countries took charge of oil pricing policies and determined the level of oil production without consulting the oil companies. This separation between the two parties led to a series of nationalizations in most of the OPEC countries, with the host government taking over the oil reserves and paying compensation to the oil companies.

This OPEC policy was accompanied by an oil embargo against some oil-importing countries such as the United States and the Netherlands. The embargo was imposed on behalf of the OAPEC (the Organisation of Arab Oil Exporting Countries) and led to determined efforts by the industrialized countries to reduce their oil consumption and explore domestic energy resources. They aimed at gaining independence from the OPEC countries and imported oil. At the same time there was a determined effort for increased conservation that led to a decrease in energy consumption.in terms of energy that is needed for one unit of economic output. But in absolute terms the demand in energy increased as economic growth continued, especially in developing countries.

The reduction of oil imports by industrial countries resulted in a significant drop in the exports of oil from the OPEC countries. At the beginning of the 1980s, for example, the OPEC countries produced 32 million barrels of oil per day, whereas in 1986 it was only 15 million barrels. Thus the oil price in that year collapsed. (In the early 1970s the price of a barrel of oil was $1.30, in the early 1980s it had gone up to $34-40 a barrel. But in 1986 it had dropped down to below $10 dollars a barrel). Since then, the price has fluctuated roughly between $12 and $20 a barrel and the consumption of oil has resumed an upward trend.

In the meantime proven oil reserves in the world increased to one trillion barrels. This would be enough to cover the oil demand in the world over the next 50 years at the current rate of consumption. (Probable and possible reserves of conventional and unconventional oil are much larger). Also coal and natural gas resources are huge, so the old fears of limits to growth because of lack of resources have become obsolete.

Despite the magnitude of proven oil reserves in OPEC countries, production capacities deteriorated during the 1980s to the point where the gap between demand for OPEC oil and production capacities was closing fast. Considerable investments for new production capacities involving financing, technologies and trained personnel were required. Several OPEC countries could not provide such resources and both Iraq and Venezuela had initiated consultations with transnational oil corporations for new arrangements in the production of proved reserves and exploration.

Since 1986, the output of oil in the United States has fallen from about nine million barrels a day to seven million barrels a day, and even with additional exploration for oil this rate is bound to decline even further. The production of North Sea oil has also peaked. In the Soviet Union (which is the biggest oil producing country in the world), production also declined considerably.

One of the problems of oil production is that if oil fields are discovered and put into full production immediately, they are eaten up very fast. (One example for this being a huge Alaskan oil field with about 10 billion barrels of oil, which started production in 1977 and is already two-thirds depleted).

Another factor that makes energy policy so complicated is that most of the world's oil resources are located in the Middle East. In 1947, a non-governmental organization, the International Cooperative Alliance, asked the United Nations' Economic and Social Council to establish a commission to manage the oil resources in the Persian Gulf. But nothing has been done so far by the international community to face this geologic phenomenon, according to Mr. Constantinou.

Mr. Constantinou said that the lack of co-operation and political will among states is an obstacle to the development of energy policy and its prospects. Even in the different organizations of the United Nations system there is no consensus on how to tackle energy issues. In terms of new and renewable sources of energy all states agree to explore all possibilities, but in the absence of major technological breakthroughs, we cannot ignore the world's dependence on conventional energy, be it coal, gas or oil.

Mr. Constantinou concluded by saying that a most important task of the United Nations is to keep reminding Member States that the only possibility to find a solution to the problem of the world energy situation is through dialogue and cooperation. Unless a compromise can be found the instability of the world energy situation will persist for many years to come.